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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/543,049	07/21/2005	James William Godfrey	PB60017USW	3927

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EXAMINER

OSTRUP, CLINTON T

ART UNIT	PAPER NUMBER
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3771

NOTIFICATION DATE	DELIVERY MODE
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01/25/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/543,049	GODFREY, JAMES WILLIAM	
	Examiner	Art Unit	
	Clinton Ostrup	3771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☒ Claim(s) 1-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>7/21/2005</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-20 are pending in this application. Claims 21-23 have been cancelled.

Priority

The examiner acknowledges this application was filed as a United States National Phase Application of International Application Serial No. PCT/EP04/00663 filed January 19, 2004, which claims priority from United Kingdom application No. 0301366.1, filed January 21, 2003.

Claim Objections

Claims 1-20 are objected to because they contain the phrase "ring-like body" which renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "like"). Thus, the scope of the claim(s) is not clearly defined, as it is unclear how "ring-like" a body must be to be included or excluded by the claims.

Claims 10 and 11 are objected to because of the following informalities: Claim 10 recites the limitation "the surfaces" in line 1; however, there is insufficient antecedent basis for this limitation in the claim. Appropriate correction is required.

Any remaining claims are objected to as depending from an objected base claim.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite because the metes and bounds of what constitutes "an endless angular extent" are unclear.

Claim 1 is additionally rejected because it is being claimed as a device, as a method of making a device, and as a method using a device. It is unclear which statutory invention type is being sought by claim 1 because there are method steps in a claim to a device.

Claim 2 is unclear because it claims the weakened zone is a structural discontinuity in the body. It is unclear if the structural discontinuity is a clear break in the ring, or if it is the axial notch in the circumferential wall.

Any remaining claims are rejected as depending from a rejected base claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Trimmer (4,151,779).

Trimmer discloses a ring-like device for locking and spacing two components situated in a cylindrical bore. The Trimmer reference teaches that the ring-like device is characterized in that said ring has a closed uninterrupted angular shape and comprises a weakened part which allows the adjacent end parts to be pressed to each other. Trimmer teaches that the ring-like device with solves a problem of the prior art, namely, the ring-like devices cannot become entangled with other rings.

Trimmer teaches a fixation device (1) which is for fixing together a first part of a multi-part assembly to a second part (two components situated in a cylindrical bore) of the assembly, the device having a ring-like body (1) which is movable from a manufactured state (1), in which the body is manufactured with an endless angular extent (1) and a weakened zone (3-7) therein, and a use state, in which the ring-like body is split (area between the ring that is used to form (3-7)) at the weakened zone (3-7). The device of Trimmer consists of the ring-like body with a weakened zone that is a structural discontinuity in the body. Moreover, Trimmer teaches that the ring-like device may be reversibly radially expanded and contracted in its use state. Thus, Trimmer clearly teaches the limitations of claims 1-5. See: col. 1, lines 10-35; col. 3, lines 10-20; figures 1-4 and abstract.

Claims 1-4, 6, and 15-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Christrup et al., (WO 00/16837).

Christrup et al., teach fixation devices (21 and 23) which are used for fixing together a first part (5) of a multi-part assembly to a second part (16) of the assembly, the device having a ring-like body (21 and 23) which is movable from a

manufactured state, in which the body is manufactured with an endless angular extent and a weakened zone (28), and a use state, in which the ring- like body (21 and 23) are split (when the canister is removed) at the weakened zone.

Christrup et al., teach fixation devices (21 and 23) consisting of a ring-like bodies with the weakened zone (28) being formed by structural discontinuities in the body (21 and 23). Moreover, Christrup et al., teach the split (28) allows the body (21) to be radially expanded when the collar ruptures upon use (i.e. removing the canister) as this removing would inherently radially expand the ring as it breaks.

In regard to claims 6 and 15-16, Christrup et al., teach a system comprising a first part (5) of a multi-part assembly, a second part (16) of the assembly and a fixation device (21) for fixing the first and second parts together. The system taught by Christrup is a product dispenser with a product container (5) comprising the first part and an accessory of the dispenser is part of the second part (16). See: page 5, line 20 –page 6, line 12; and figures 4 and 6.

Claims 1-8 and 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Hoard, (3,446,552).

Hoard teaches a fixation device (11) which is for fixing together a first part (21) of a multi-part assembly to a second part (31) of the assembly, the device having a ring-like body (11) which is movable from a manufactured state, in which the body is manufactured with an endless angular extent (Figure 1) and a weakened zone (13) therein, and a use state, in which the ring-like body is split (Figure 2) at the weakened zone.

Hoard teaches a ring-like fixation device (Figure 1) with structural discontinuity in the body to form the weakened zone and that the one-piece retaining ring is made of flexible material that is flexible in its radial direction and is biased to a contracted position. Thus, Hoard meets the specific limitations of claims 2-5.

Hoard teaches using the ring-like fixation device (1) as part of a system (Figure 3) comprising a first part (21) of a multi-part assembly, a second part (31) of the assembly and a fixation device (11) for fixing the first part (21) and the second part (31) together with the fixation device (11) interposed between the first part (21) and the second part (31). Thus, Hoard meets the specific limitations of claims 5-8.

Regarding claim 19, Hoard teaches a method of fixing a first part (21) of a multi-part assembly to a second part (31) thereof which comprises providing a fixation device (11) having a ring-like body which is manufactured with an endless angular extent (Figure 1), forming an axial split in the body (Figure 2) and interposing the fixation device between the first and second parts (Figure 3) such that the first and second parts are fixed together through the fixation device.

Regarding claim 20, Hoard teaches a method wherein the fixation device has a ring-like body which is movable from a manufactured state, in which the body is manufactured with an endless angular extent (Figure 1) and a weakened zone (13) therein, and a use state, in which the ring-like body is split at the weakened zone (Figure 2). See: col. 1, lines 10-20; col. 1, line 65 – col. 2, line 20; col.3, lines 3-29; and Figures 1-3.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 6-20 are rejected under 35 U.S.C. 103(a) as being unpatentable Brand et al., (WO 01/2887 A1) and further in view of Trimmer (4,151,779).

Brand et al., teach a ring-like fixation device (125, 225, 325, & 425) for fixing an aerosol canister (120, 220, 320, & 420) to dose indicating device (100, 200, 300, & 400). The Brand et al., reference teaches the fixation device as a split-ring and that it can be wedged between the tubular sleeve and the neck of the canister.

Moreover, applicant has admitted in the specification, how Brand et al teach a "fixation device of the type defined... for connecting a device housing to the business end of an aerosol canister." Applicants further admits that the fixation device taught by Brand et al., "has a ring-like body... having an axial split;" however, applicant contends that "the fixation device is integrally formed with the split in the body." Thus, the aim of the present invention, according to applicant's specification is to provide a fixation device that avoids a problem associated with forming split-rings in mass production, namely the rings becoming entangled with one another. Thus, the question is whether forming a ring with a weakened zone and then splitting the ring at the weakened zone, to form the same ring described by Brand et al., is unobvious over the teaching of Brand et al. taken together with what is known in the prior art.

First, it should be noted that Brand et al., is silent with respect to how their fixation device is formed and the final fixation device as claimed, in a use state, becomes the same fixation device taught by Brand et al. after the weakened zone is removed.

Therefore, Brand et al., teach the fixation device, in a use state, and a method of using the fixation device, in a use state, as claimed, however, Brand et al., lack the specific teaching of forming a ring-like fixation device with a weakened zone instead of a ring-like fixation device with an axial split as claimed in claims 1 and 6-20.

Trimmer discloses a ring for locking and spacing two components situated in a cylindrical bore. Trimmer teaches that ring-like device has a closed uninterrupted angular shape and comprises a weakened part which allows the adjacent end parts to be pressed to each other. Trimmer teaches that the ring-like device with a weakened part solves the problem in the prior art of ring-like devices becoming entangled with other rings, as ring-like devices with a weakened part cannot become entangled with other rings.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have formed a ring-like fixation device to fix an aerosol canister to a dose counter, as taught by Brand et al., by using a ring-like device with a weakened part, as taught by Trimmer because of the reasonable expectation of obtaining a ring-like fixation device which would not get entangled with other rings and could be easily fitted over the top of a canister and then fixed to the neck of said canister.

Conclusion

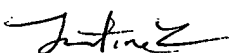
Art Unit: 3771

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Brand et al., (US 2003/0136800 A1); Helgesson et al., (US 2003/0075175 A1); Di Diovanni et al., (US 6,170,717 B1); Bonney et al., (US 2006/0096594 A1); Blacker et al., 6,997, 349 B2); and Christrup et al., (US 6,415,784) all of which disclose ring-like fixation devices in aerosol devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clinton Ostrup whose telephone number is (571) 272-5559. The examiner can normally be reached on M-F 7:30-5 pm with alternating Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


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